

# **LEGISLATIVE RESEARCH COMMISSION**

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## **COASTAL AREA MANAGEMENT**



**REPORT TO THE  
1983 GENERAL ASSEMBLY  
OF NORTH CAROLINA**



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OF NORTH CAROLINA**

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January 6, 1983

TO THE MEMBERS OF THE 1983 GENERAL ASSEMBLY

The Legislative Research Commission herewith reports to the 1983 General Assembly on the matter of the Coastal Area Management Act. The report is made pursuant to Resolution 61 of the 1981 General Assembly.

This report was prepared by the Legislative Research Commission's committee to study the rules and regulations pertaining to the Coastal Area Management Act and is transmitted by the Legislative Research Commission for your consideration.

Respectfully submitted,

Liston B. Ramsey  
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W. Craig Lawing  
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Cochairmen  
Legislative Research Commission



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## PREFACE

The Legislative Research Commission, authorized by Article 6B of Chapter 120 of the General Statutes, is a general purpose study group. The Commission is cochaired by the Speaker of the House and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

At the direction of the 1981 General Assembly, the Legislative Research Commission has undertaken studies of numerous subjects. These studies were grouped into broad categories and each member of the Commission was given responsibility for one category of studies. The Cochairmen of the Legislative Research Commission, under the authority of General Statutes 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and of the public to conduct the studies. Cochairmen, one from each house of the General Assembly, were designated for each committee.

The study of coastal area management was directed by subdivision (26) of Section 1 of Resolution 61 of the 1981 Session Laws. Its purpose was to examine "the rules and regulations pertaining to the Coastal Area Management Act." The resolution referred to Senate Joint Resolution 724 introduced by Senators Daniels, Thomas of Craven,

Mills, Harrington, Coles and Wright.

The Legislative Research Commission placed this study under the Environment Area for which Representative Chris S. Barker, Jr. of the Commission is responsible. This study was assigned to the Committee on Coastal Area Management which was cochaired by Representative Charles D. Evans and Senator Melvin R. Daniels, Jr. A membership list of the Legislative Research Commission and a membership list of the Study Committee may be found in Appendix A. A copy of Resolution 61 of the 1981 Session Laws and of Senate Joint Resolution 724 may be found in Appendix B.

Article XIV, Section 5 of the North Carolina Constitution speaks to the importance of conserving our natural resources. It says:

"It shall be the policy of this State to conserve and protect its lands and waters for the benefit of all its citizenry, and to this end it shall be a proper function of the State of North Carolina and its political subdivisions to acquire and preserve park, recreational and scenic areas, to control and limit the pollution of our air and water, to control excessive noise, and in every other appropriate way to preserve as a part of the common heritage of this State its forests, wetlands, estuaries, beaches, historical sites, openlands, and places of beauty."

COMMITTEE PROCEEDINGS

The Committee on Coastal Area Management held three meetings in Raleigh and three public hearings in the coastal area. At its organizational meeting, the committee heard a general overview of the Coastal Area Management Act (CAMA), and it discussed various issues into which it felt further inquiry was necessary. The committee recognized that CAMA is of special importance to coastal area residents; therefore the committee decided to go to the coast to get direct input from those people most affected by CAMA.

Public hearings were held at Pine Knoll Shores, Wilmington and Manteo. Sessions were scheduled during the day and at night so that all interested persons would have an opportunity to appear. About 150 people, including local officials, current and past members of the Coastal Resources Advisory Council, representatives of environmental groups and private citizens appeared or sent written statements to the hearings. The presentations and statements indicated there is broad support for CAMA in general, and for the local land use plan program in particular. Many proponents of CAMA spoke of an initial period of sentiment against the Act that disappeared after the Act was phased in. A few presentations contained philosophical opposition to the concept of land use planning and/or its application to only the coastal area; these presenters tended to express concerns that people sharing their perspective would not appear at public hearings, either because they were afraid to "buck the system" or they felt it was futile to do so. No specific evidence was presented to either corroborate or rebut this assertion. Over 100 suggestions for improving CAMA were made at the public hearing. Suggestions came from the great majority of

the people who tended to favor CAMA and from the few who were against it.

The committee held two meetings in Raleigh to deliberate on the recommendations made at the public hearings and to make its recommendations to the 1983 General Assembly.

RECOMMENDATIONS

Pursuant to the direction of Resolution 61 of the 1981 Session Laws, the Legislative Research Commission Committee on Coastal Area Management, after having reviewed the information presented, recommends the following courses of action and proposes the following legislation to the 1983 General Assembly:

Funding of CAMA

RECOMMENDATION 1: The Committee urges the United States Congress to continue its prior level of funding for coastal zone management. This might be accomplished by setting aside a portion of future oil and gas revenues from the outer continental shelf for State coastal management programs.

Federal funds accounted for over 80% of the expenditures for the North Carolina coastal area management program for the 1981-83 fiscal biennium. The United States Congress has allocated no additional funds for coastal area management. Although the Department of Natural Resources and Community Development was able to carry forward \$384,000 in federal funds to the 1983-84 fiscal year, this is the end of the federal funds and the sum does not favorably compare with the \$1,505,000 in federal funds the Department received for the coastal area management program in 1981-82. Clearly, the program will be financially strapped as a result.

The 97th Congress has before it, proposed legislation that would set aside a portion of future oil and gas revenues from the outer

continental shelf for State coastal management programs. This bill, H.R. 5543, was sponsored by Congressman Jones of North Carolina and has passed the House of Representatives. The study committee recommends the passage of H.R. 5543, or of similar legislation, and the resumption by the federal government of the burden of funding State coastal management programs.

RECOMMENDATION 2. The General Assembly should appropriate funds adequate to provide for an efficient program to manage coastal resources.

Carried over federal funds, State continuation budget funds, and local funds and receipts anticipated for the coastal area management program amount to \$660,918 for the 1983-84 fiscal year and \$273,918 for the 1984-85 fiscal year. This is significantly less than the \$1,829,383 expended in 1981-82 and the \$1,459,066 in 1982-83. It is improbable that the State can operate an efficient program to manage the coastal resources unless more State funds are appropriated. Activity recommended by this committee to streamline the program and to make it more responsive to the needs of the people will require that the program be adequately funded. Notwithstanding the monetary constraints the State faces for the upcoming fiscal biennium, the study committee recommends that adequate funds be appropriated for coastal area management.

A statement of budget expenditures and the sources of funds for the 1981-83 fiscal biennium, and a statement of the Department's projected budget expenditures and the sources of funds for the 1983-85 fiscal biennium may be found in Appendix C.

RECOMMENDATION 3. The following recommendations regarding funding of the coastal area management program made at the public hearings are referred to the Coastal Resources Commission for its information and consideration:

1. to place additional funding responsibility on local governments;
2. not to place any additional funding responsibility on local governments; and
3. to permit coastal counties to levy additional sales tax to pay for erosion programs.

The Committee requests that the Coastal Resources Commission report any actions taken or recommended on these items to the cochairmen of the study committee.

## Beach Access

RECOMMENDATION 4. The beach access program should be continued as available funds permit.

The Coastal Beach Access Program was created by the 1981 General Assembly to permit the public acquisition of ocean front lots, on which the building of permanent structures would be inappropriate, for the purpose of providing public access to ocean beaches. One million dollars was appropriated for the program. Over \$550,000 had already been expended for the acquisition and improvement of lots by December 1, 1982; applications for grants totalling \$3 million were pending for the remaining \$450,000. Local government officials and private citizens expressed satisfaction with the program to the committee.

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RECOMMENDATION 5. The beach access program should be expanded to provide public access to estuarine beaches.

The statutory language creating the beach access program refers only to ocean beaches. The estuarine area, like the ocean area, contains many lots which would be appropriate for public access to the North Carolina sounds and other estuarine waters.

The following bill would make the statutory changes necessary to make the beach access program applicable to estuarine beaches.

A BILL TO BE ENTITLED  
AN ACT TO INCLUDE ESTUARINE WATER BEACHES IN THE BEACH ACCESS  
PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. The title of Article 7A of Chapter 113A of the General Statutes is amended to read: "Coastal and Estuarine Water Beach Access Program".

Sec. 2. The first sentence of G.S. 113A-134.1 is amended by adding after the words "Atlantic Ocean" the words "and the estuarine waters".

Sec. 3. The first sentence of G.S. 113A-134.1 is amended by adding after the words "the coastal" the words "and estuarine water".

Sec. 4. The second paragraph of G.S. 113A-134.1 is amended by deleting the words "ocean beaches" wherever they appear and substituting "ocean and estuarine beaches".

Sec. 5. G.S. 113A-134.2 is amended by deleting the words "Coastal Beach" and substituting "Coastal and Estuarine Water Beach".

Sec. 6. G.S. 113A-134.2 is amended after the words "Atlantic Ocean" the words "and estuarine waters".

Sec. 7. G.S. 113A-134.2 is amended by adding a second paragraph to read:

"The Coastal Resources Commission and the Department of Natural Resources and Community Development shall use the definition of "estuarine water" used under Article 7 of this Chapter to administer this program."

Sec. 8. The first sentence of G.S. 113A-134.3 is amended by adding after the word "ocean" the words "and estuarine water".

Sec. 9. The fourth sentence of G.S. 113A-134.3 is amended by adding after the word "coastal" the words "and estuarine water".

Sec. 10. The fifth sentence of G.S. 113A-134.3 is amended by adding after the word "coast" the words "and estuarine waters".

Sec. 11. The sixth sentence of G.S. 113A-134.3 is amended by adding after the word "coastal" the words "and estuarine water".

Sec. 12. This act shall become effective July 1, 1983.

RECOMMENDATION 6. All incorporated cities should be given the opportunity to nominate members of the Coastal Resources Commission.

Current law permits all counties and all incorporated cities in the coastal area which either have a population of 2,000 or more or are contiguous with the Atlantic Ocean to nominate members of the Coastal Resources Commission. This recommendation would permit incorporated cities which are smaller than 2,000 people and which are not on the ocean to have the same opportunity. Sections 1 and 3 of the following bill would accomplish this.

Some cities which currently have the opportunity to make nominations fail to do so. Current law gives the governor the option of adding a nominee for every nominee not received from a county or city. The committee felt that some cities smaller than 2,000 people and not contiguous with the ocean might also fail to make nominations. If this happened, the governor would have the opportunity to make more nominations and there would be less assurance that the appointees to the Commission would come from the nominees of local governments in the coastal area. For this reason, the committee decided not to give the governor additional opportunities to nominate if these newly enfranchised cities failed to make their nominations. Sections 2 and 4 of the following bill set out this limitation.

Section 5 of the bill makes it effective upon ratification, but makes it inapplicable to any vacancies there may be on the board at the time of ratification. This limitation avoids interference with any ongoing nomination or selection process.

A BILL TO BE ENTITLED AN ACT TO PERMIT ALL INCORPORATED CITIES  
WITHIN THE COASTAL AREA TO NOMINATE MEMBERS OF THE  
COASTAL RESOURCES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The fifth sentence of G.S. 113A-104(d)  
is amended to read:

"On or before June 1 in every even-numbered year the  
governing body of each incorporated city within the coastal  
area shall nominate and transmit to the Governor the name of  
one person as a nominee to the Commission."

Sec. 2. The eighth sentence of G.S. 113A-104(d)  
is amended by adding before the final period the following:

"; provided however, the Governor may not add to the  
list a nominee in lieu of one not transmitted by an incorporated  
city within the coastal area that neither has a population  
of 2000 or more nor is contiguous with the Atlantic Ocean".

Sec. 3. G.S. 113A-104(h) is amended in the second  
sentence by deleting the words:

"having a population of 2,000 or more and of each  
incorporated city having a population of less than 2000 whose  
corporate boundaries are contiguous with the Atlantic Ocean".

Sec. 4. G.S. 113A-104(h) is amended in the last sentence by adding before the final period the following:  
"; provided however, the Governor may not add to the list a nominee in lieu of one not transmitted by an incorporated city within the coastal area that neither has a population of 2000 or more nor is contiguous with the Atlantic Ocean.

Sec. 5. This act is effective upon ratification and applies only to vacancies in the Coastal Resources Commission arising after ratification.

Coastal Resources Advisory Council

RECOMMENDATION 7. The Coastal Resources Advisory Council should have two representatives of the Department of Natural Resources and Community Development and one representative of the Department of Commerce.

The Coastal Resources Advisory Council had three representatives of the Department of Natural and Economic Resources when the Council was created. As a result of executive reorganization, the name "Natural Resources and Community Development" was substituted for "Natural and Economic Resources" in 1977. This change corrected the name of the Department; it did not, however, take into account that governmental operations were transferred from the old Department of Natural and Economic Resources to the Department of Commerce. These governmental operations no longer had representation on the Council. This recommendation would give one of the new Department of Natural Resources and Community Development's three representatives to the Department of Commerce, thereby recreating the original intent of the law. The following bill would make this change in the law.

A BILL TO BE ENTITLED AN ACT TO MODIFY THE MEMBERSHIP OF  
THE COASTAL RESOURCES ADVISORY COUNCIL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-105(b)(1) is amended to read:

"(1) Two individuals designated by the Secretary of Natural Resources and Community Development from among the employees of his Department;".

Sec. 2. G.S. 113A-105(b) is amended by adding a new subdivision to read:

"(1a) The Secretary of the Department of Commerce or his designee;".

Sec. 3. This act is effective upon ratification.

Geographical Scope of Land Management

RECOMMENDATION 8. The committee observes that since land use planning as embodied in CAMA works well and has been beneficial to the coastal area, it should be considered for the rest of the State.

When CAMA was enacted, very little land use planning was occurring in the coastal area; in this sense, CAMA has filled a void on the coast. On the other hand, land use planning is occurring outside of the coastal area especially in urban areas. Mecklenburg County, for example, has had a highly developed land use plan in effect for some time. Where there is no land use planning, the committee recommends that it be considered.

RECOMMENDATION 9. CAMA should have some input into the granting of water quality permits outside of the coastal area which affect water quality in the coastal area.

Although discharges into rivers and streams outside of the coastal counties affect water quality in the coastal area, CAMA has no input into the regulation of these discharges. The current law gives the Coastal Resources Commission input into, but no veto power over, permits for discharges within the coastal area. The following bill would extend this input to permits for discharges upstream.

A BILL TO BE ENTITLED  
AN ACT TO GIVE CAMA INPUT INTO THE GRANTING OF PERMITS OUTSIDE  
THE COASTAL AREA THAT AFFECT WATER QUALITY IN THE COASTAL  
AREA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-125(b) is amended by deleting the second sentence and substituting:

"All permits, special orders or certificates, for water pollution control, issued pursuant to Article 21 of Chapter 143 of the General Statutes which affect coastal water quality shall be administered in coordination and consultation with (but not subject to the veto of) the Commission. No existing permit within the coastal area, or any existing permit affecting coastal water quality shall be issued, modified, renewed or terminated except after consultation with the Commission."

Sec. 2. This act is effective upon ratification.

Communication with the Public

RECOMMENDATION 10. Obsolete parts of CAMA should be repealed or updated.

The phase-in provisions of CAMA, such as those designating interim areas of environmental concern, are now obsolete and should be repealed. If there is a need to refer back to what used to be the law, outdated statutes can be found in the Supreme Court library and in other law libraries throughout the State.

The definition of "estuarine waters" in G.S. 113A-113 refers to an agreement between the Wildlife Resources Commission and the Department of Natural Resources and Community Development in 1965. The agreement has been superseded for other purposes by a later agreement; copies of the 1965 agreement are no longer available. CAMA should use the same definition of estuarine waters that other State agencies use and the statute should be changed accordingly.

These are recommendations of the Legislative Committee on Agency Review. A bill produced by that committee to affect these statutory changes may be found in Appendix D.

RECOMMENDATION 11. There should be a layman's summary of the regulations.

Many people at the public hearings complained that they could not read and understand CAMA and its regulations. Applicants for permits do not know how to fill out permit applications and they do not understand the parameters of permissible development. Often they need professional assistance to get approval for a project.

Legal requirements limit how much the law and the regulations can be simplified; therefore, the committee recommends that the Office of Coastal Management prepare a layman's summary of CAMA or a series of brochures on the Act. The summary might include topics such as how to get a major or minor development permit, the differences between major and minor development and a general overview of the coastal area management program.

The committee notes that the Office of Coastal Management prepared a summary of CAMA for the committee which may serve as a basis for the layman's summary.

RECOMMENDATION 12. The following recommendations, made at the public hearings, regarding communicating with the public are referred to the Coastal Resources Commission for its information and consideration:

1. to make the regulations as clear and concise as possible;
2. to index the regulations;
3. to expand efforts to educate the public about the purposes of the law, its goals and procedures;
4. to direct program representatives to provide constructive criticism of proposed projects.
5. to keep local governments better informed about Commission activities;
6. to give local governments more responsibility for educating the public about CAMA.

The committee requests that the Coastal Resources Commission report any actions taken or recommended on these items to the cochairmen of the study commission.

Permits

RECOMMENDATION 13. The Coastal Resources Commission should have the authority to set the fee for a major development permit as high as \$100; the maximum fee for a minor permit should remain at \$25.

The statutes give the Coastal Resources Commission the authority to set the fee for both major and minor permits as high as \$25. The Commission has set the fee for both at the maximum. Twenty-five dollars is not nearly enough to off-set the actual costs of processing a major development permit. For this reason, the committee recommends that the Commission be given the authority to set the fee for a major development permit at an appropriate amount up to \$100.

The following bill would make the statutory change necessary to give the Commission this authority.

A BILL TO BE ENTITLED AN ACT AUTHORIZING THE COASTAL RESOURCES  
COMMISSION TO SET A FEE OF UP TO ONE HUNDRED DOLLARS  
FOR A CAMA MAJOR DEVELOPMENT PERMIT.

The General Assembly of North Carolina enacts:

Section 1. The second sentence of G.S. 113A-119 is amended by rewriting the parenthetical expression to read:  
"(not to exceed twenty-five dollars (\$25.00) for a minor development permit and not to exceed one hundred dollars (\$100.00) for a major development permit)".

Sec. 2. This act is effective upon ratification.

RECOMMENDATION 14. The time allotted for consideration of major development permits should be decreased from 90 to 75 days; the time allotted for consideration of minor development permits should be decreased from 30 to 25 days.

A major complaint about CAMA is that it takes too long to have a permit application approved. Currently, the law allots the Department 90 days to consider a major development permit and 30 days to consider a minor development permit. The Department may extend the time for additional 90 days for major and 30 days for minor permits if it feels it is necessary to do so. The Department informed the committee that, except in exceptional cases, 75 days is adequate for consideration of a major development permit and 25 days is adequate for a minor development permit.

Section 1 of the following bill would lower the time allotted for minor permits to 25 days with an extension of 25 days available in exceptional cases. The first paragraph of Section 2 of the bill would lower the time allotted for major permits to 75 days with an extension of 75 days available in exceptional circumstances. The second paragraph of Section 2 of the bill would leave the time allotted for consideration of appeals the same as it is under current law.

A BILL TO BE ENTITLED AN ACT TO DECREASE THE TIME ALLOTTED FOR  
THE CONSIDERATION OF PERMITS UNDER THE COASTAL AREA  
MANAGEMENT ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-121(c) is amended by rewriting the first sentence to read:

"(c) Failure of the Secretary or the designated local official (as the case may be) to approve or deny an application for a minor permit within 25 days from receipt of application shall be treated as approval of the application, except that the Secretary or the designated local official (as the case may be) may extend the deadline by not more than an additional 25 days in exceptional cases."

Sec. 2. G.S. 113A-122(c) is amended to read:

"(c) Failure of the Commission to approve or deny an application for a permit pursuant to this section within 75 days from receipt of application shall be treated as approval of the application, except the Commission may extend the deadline by not more than additional 75 days in exceptional cases.

Failure of the Commission to dispose of an appeal pursuant to this section within 90 days from notice of appeal shall be treated as approval of the action appealed from, except that the Commission may extend the deadline by not more than an additional 90 days if necessary to properly consider the appeal."

Sec. 3. This act is effective upon ratification.

RECOMMENDATION 15. Local governments should not be permitted to issue permits for their own developments.

Current law permits local governments to qualify as permit-letting agencies for minor development permits. This places qualifying local governments in the position of granting minor development permits to themselves for their minor developments within their permit-letting jurisdiction. This results in an appearance of inequity to those citizens who oppose a decision of a local government to grant itself a permit.

The following bill would classify a permit which a local government would otherwise have the authority to grant itself as a major development permit. The local government would then be required to apply for a major development permit. This major development permit application, like all major development permit applications, would be considered at the State level.

A BILL TO BE ENTITLED AN ACT TO REQUIRE THAT LOCAL GOVERNMENTS  
APPLY FOR MAJOR DEVELOPMENT PERMITS FOR ALL DEVELOPMENT  
UNDER THE COASTAL AREA MANAGEMENT ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-118(d)(1) is amended by adding  
before the final period the following:

"; or which a local government which acts as a permit-  
letting agency contemplates within its geographical, permit-  
letting jurisdiction".

Sec. 2. This act is effective upon ratification.

RECOMMENDATION 16. CAMA should have emergency permit procedures.

The current law contains no provisions for the speedy issuance of permits for new work in emergency situations.(The law exempts from the permit requirement only maintenance and repairs to repair damage to existing structures caused by the elements.) After a major storm, it would not be possible to get CAMA permits, in a hurry, for clean-up operations.

The following bill would give the Secretary of the Department of Natural Resources and Community Development the authority to issue special emergency permits. This authority would be similar to the Secretary's authority under the Dredge and Fill Law.

A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR THE ISSUANCE OF  
SPECIAL EMERGENCY PERMITS UNDER THE COASTAL AREA MANAGEMENT  
ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-118 is amended by adding a new subsection to read:

(f) The Secretary of the Department of Natural Resources and Community Development may issue special emergency permits under this Article. These permits may only be issued in those extraordinary situations in which life or structural property is in imminent danger as a result of storms, sudden failure of man-made structures, or similar occurrence. These permits may carry any conditions necessary to protect the public interest, consistent with the emergency situation and the impact of the proposed development. If an application for an emergency permit includes work beyond that necessary to reduce imminent dangers to life or property, the emergency permit shall be limited to that development reasonably necessary to reduce the imminent danger; all further development shall be considered under ordinary permit procedures. This emergency permit authority of the Secretary shall extend to all development in areas of environmental concern, whether major or minor development, and the mandatory notice provisions of G.S. 113A-119(b) shall not apply to these emergency permits. To the extent feasible, these emergency permits shall be coordinated with any emergency permits required under G.S. 113-229(e).

Sec. 2. This act is effective upon ratification.

RECOMMENDATION 17. The Coastal Resources Commission should have authority to issue blanket or general permits for certain routine types of development.

Under current law, relatively insignificant types of development which have little impact on areas of environmental concern, and which should not require on-sight oversight or public review and comment, must go through the procedural requirements for all development permits. This is a waste of the coastal area management program's resources and an unwarranted delay for developers.

The following bill would give the Coastal Resources Commission authority to issue general permits for certain types of development. The bill has several safeguards. It sets out factors which the Commission would have to consider regarding these general permits, and it requires that general permits be adopted as rules. It also gives the Commission the discretion to place appropriate conditions and safeguards on the permits.

A BILL TO BE ENTITLED AN ACT TO ALLOW THE COASTAL RESOURCES  
COMMISSION TO ISSUE GENERAL PERMITS UNDER THE COASTAL  
AREA MANAGEMENT ACT AND UNDER THE DREDGE AND FILL LAW.

The General Assembly of North Carolina enacts:

Section 1. A new section is added to Chapter 113A of the General Statutes G.S. 113A-118.1 to read:

"113A-118.1. General permits.--(a) The Commission may, by rule, designate certain classes of major and minor development for which a general or blanket permit may be issued. In developing these rules, the Commission shall consider:

- (1) The size of the development;
- (2) The impact of the development on areas of environmental concern;
- (3) How often the class of development is carried out;
- (4) The need for on-site oversight of the development; and
- (5) The need for public review and comment on individual development projects.

(b) General permits may be issued by the Commission as rules under the provisions of G.S. 113A-107. Individual developments carried out under the provisions of general permits shall not be subject to the mandatory notice provisions of G.S. 113A-119.

(c) The Commission may impose reasonable notice provisions and other appropriate conditions and safeguards on any general permit it issues.

(d) The variance, appeals, and enforcement provisions of this Article shall apply to any individual development projects undertaken under a general permit."

Sec. 2. A new subsection is added to G.S. 113-229 to read:

"(cl) The Coastal Resources Commission may, by rule, designate certain classes of major and minor development for which a general or blanket permit may be issued. In developing these rules, the Commission shall consider:

- (1) The size of the development;
- (2) The impact of the development on areas of environmental concern;
- (3) How often the class of development is carried out;
- (4) The need for on-site oversight of the development; and
- (5) The need for public review and comment on individual development projects.

General permits may be issued by the Commission as rules under the provisions of G.S. 113A-107. Individual developments carried out under the provisions of general permits shall not be subject to the mandatory notice provisions of this section. The Commission may impose reasonable notice provisions and other appropriate conditions and safeguards on any general permit it issues. The variance, appeals, and enforcement

provisions of this Article shall apply to any individual development projects undertaken under a general permit."

Sec. 3. This act is effective upon ratification.

RECOMMENDATION 18. All projects requiring federal government approval should be treated as major developments. This would decrease the overall permit processing time.

It is an anomaly in the current law that treating projects requiring federal government approval as minor and not major State CAMA permits impedes federal-state coordination. This increases the time it takes a developer to get all the permits he needs. For this reason, the Legislative Committee on Agency Review has recommended that projects requiring federal approval be classified as major developments under CAMA. This committee ratifies that recommendation.

Proposed legislation recommended by the Legislative Committee on Agency Review that affect this statutory change may be found in Appendix

RECOMMENDATION 19. The same procedural requirements should apply to the Dredge and Fill Law and to CAMA.

Minor procedural differences between the Dredge and Fill Law and CAMA require a developer to conform to two sets of rules regarding permits that are all before the Coastal Resources Commission. This is an unnecessary complication that results in no benefit to the public.

The Legislative Committee on Agency Review has recommended legislation to make the same procedural requirements applicable to both types of permits. This proposed legislation may be found in Appendix D. This committee ratifies that recommendation.

RECOMMENDATION 20. The following recommendations regarding permits,  
made at the public hearings, are referred to the Coastal Resources  
Commission for its information and consideration:

1. to provide better training for local permit officers so as to achieve consistent decision making; and
2. to make permit applications as simple as possible.

The committee requests that the Coastal Resources Commission report any actions taken or recommended on these items to the cochairmen of the committee.

Appeals

RECOMMENDATION 21. Development should be prohibited while a request for a hearing to review the decision to grant a permit is pending.

Current law provides that no development shall take place while the Coastal Resources Commission is reviewing a decision to grant a permit; however, development can proceed after someone requests a review but before the Commission decides whether to grant the review. While the Commission is deciding, a developer could proceed with his development even though someone had initiated proceedings for an appeal.

The following bill would close this loophole. It would prohibit development as soon as a request for a hearing had been made.

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT DEVELOPMENT PURSUANT TO A CAMA PERMIT  
WHILE A REQUEST FOR A HEARING ON THAT PERMIT IS PENDING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-121.1(e) is amended to read:

"(e) In cases where no request for a hearing has been made under paragraph (c) of this section, development authorized by the permit may be undertaken unless prohibited by an order of the superior court."

Sec. 2. G.S. 113A-121.1(d) is amended by adding after the word "review" the words "or request for a hearing".

Sec. 3. This act is effective upon ratification.

RECOMMENDATION 22. It was recommended at the public hearings that the administrative procedures required for appeals be simplified so as to avoid ritualistic formal proceedings. This recommendation is referred to the Coastal Resources Commission for its information and consideration.

The committee requests that the Coastal Resources Commission report any action taken or recommended on this item to the cochairmen of the committee.

## Penalties

RECOMMENDATION 23. The Coastal Resources Commission should have the authority to levy civil penalties for violations concerning minor development permits. The maximum fine for major development violations should be \$10,000 and every day of continuing violation should be a separate offense.

Under the current law, only criminal sanctions are available for minor development violations. This puts local government in the position of having to bring criminal actions for minor development violations. The result is a burden on local governments and inconsistent treatment of violators. Section 1 of the bill that follows this recommendation would allow the Coastal Resources Commission to levy a civil fine of up to \$1,000 for minor development violation.

Under the current law, the maximum fine for a major development violation is \$1,000. This amount is sometimes insignificant in relation to the size of the project in question, the amount of damage to the environment done by the violation and/or the administrative cost of investigating and processing the penalty. One thousand dollars is not always an adequate deterrent to would-be violators. Section 1 of the following bill would increase the maximum penalty for major development violations to \$10,000. Section 2 of the bill would make every day a violation continues after a developer is told he is in violation, a separate violation. Thus the fine for a minor development violation would be up to \$1,000 a day; the fine for a major development violation would be up to \$10,000 a day. This provision would also give the Commission added flexibility in deterring violations.

Section 3 of the Bill would make the law effective July 1, 1983. This law should become effective long enough after ratification that would-be offenders can become aware of its provisions.

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE CIVIL PENALTIES FOR VIOLATIONS OF THE  
COASTAL AREA MANAGEMENT ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-126(d)(1) is amended by  
rewriting the portion before the colon to read:

"(1) A civil penalty of not more than one thousand  
dollars (\$1,000) for a minor development violation  
and ten thousand dollars (\$10,000) for a major  
development violation may be assessed by the  
Commission against any person who"

Sec. 2. G.S. 113A-126(d)(1)d is amended by deleting  
the last sentence.

Sec. 3. G.S. 113A-126(d)(2) is amended to read:

"(2) For each willful action or failure to act for which  
a penalty may be assessed under this subsection,  
the Commission may consider each day the action or  
inaction continues after notice is given of the  
violation as a separate violation; a separate penalty  
may be assessed for each such separate violation."

Sec. 4. This act shall become effective July 1, 1983.

## Compensation for Landowners

RECOMMENDATION 24. If an application for a CAMA permit is required,  
the permit-letting officer making the decision should notify the  
applicant of his right to have his land reappraised for tax purposes.

If as a result of the denial of a CAMA permit, the value of a piece of property has decreased more than \$100, it should be reappraised that year for property tax purposes pursuant to G.S. 105-287. Persons denied a permit should be made aware of this provision so they can notify their local tax supervisors that the property should be reappraised. Reappraisal might lower the amount of property taxes owed by the unsuccessful applicant.

RECOMMENDATION 25. Landowners should receive a tax credit for donating lands to the State which have decreased in value due to CAMA and which would provide public benefit.

There was much sentiment at the public hearings that landowners should receive some compensation if the value of their land decreases due to CAMA. It was also recognized at the public hearings that some land should never be developed but should be preserved by the State.

The following bill would give a tax credit as an incentive for donating lands that provide public benefit to the State. The amount of the credit, as determined by the Coastal Resources Commission, would be the difference between the market value of the property absent the CAMA restrictions and its value under the CAMA restrictions.

The Commission would also determine whether the property provided the requisite public benefit to be eligible for the credit. The credit could not exceed the taxes owed, but it could be carried over for five years.

Section 1 of the bill applies to corporate income taxes; Section 2 applies to personal taxes. Section 3 makes the bill applicable beginning with the 1983 tax year.

A BILL TO BE ENTITLED  
AN ACT TO PROVIDE AN INCOME TAX CREDIT FOR CERTAIN REAL  
PROPERTY DONATED TO THE STATE.

The General Assembly of North Carolina enacts:

Section 1. Division I of Article 4 of Chapter 105  
is amended by adding a new section to read:

"§105-130-34. Credit for certain real property donated  
to State.--(a) Any corporation that donates real property to  
the State during the taxable year that is subject to land use  
restrictions imposed pursuant to the Coastal Area Management  
Act shall be allowed a credit against the taxes imposed by  
this Division equal to the difference between the market  
value of the property upon donation and what the market value  
of the property would be if the property was not subject to  
these land use restrictions. The Coastal Resources Commission  
shall determine the difference between the market value of  
the land and its hypothetical market value. Only property  
donations approved by the Coastal Resources Commission as  
providing public benefit are eligible for this credit.

(b) This credit may not exceed the amount of tax imposed  
by this Division for the taxable year reduced by the sum of  
all credits allowable under this Division, except tax payments  
made by or on behalf of the taxpayer. Any unused portion of  
this credit may be carried forward for the succeeding five years."

Sec. 2. Division II of Article 4 of Chapter 105 is amended by adding a new section to read:

"§105-151.12. Credit for certain real property donated to State.--(a) Any person who donates real property to the State during the taxable year that is subject to land use restrictions imposed pursuant to the Coastal Area Management Act shall be allowed a credit against the taxes imposed by this Division equal to the difference between the market value of the property upon donation and what the market value of the property would be if the property was not subject to these land use restrictions. The Coastal Resources Commission shall determine the difference between the market value of the land and the hypothetical market value. Only property donations approved by the Coastal Resources Commission as providing public benefit are eligible for this credit.

(b) This credit may not exceed the amount of tax imposed by this Division for the taxable year reduced by the sum of all credits allowable under this Division, except tax payments made by or on behalf of the taxpayer. Any unused portion of this credit may be carried forward for the succeeding five years."

Sec. 3. This act is effective for taxable years beginning on or after January 1, 1983.

Barrier Islands

RECOMMENDATION 26. The following recommendations regarding barrier islands, made at the public hearings, are referred to the Coastal Resources Commission for its information and consideration:

1. to make all barrier islands areas of environmental concern;
2. to study optimum density of barrier islands;
3. to regulate density of barrier islands;
4. to preserve vegetation on barrier islands;
5. to prohibit permanent oceanfront erosion control structures including groins, bulkheads, seawalls and revetments;
6. to make set-back requirements more stringent;
7. to protect second line of dunes;
8. to eliminate the 60 foot set-back "grandfather clause";
9. to set erosion rates only with actual data;
10. to review set-back requirements on a regular basis, especially in cases in which development has been precluded;
11. to fine tune set-back requirements;
12. to let people who own ocean front lots build after being warned of erosion hazards;
13. to fully disclose to prospective buyers:
  - (a) erosion rates and set-back requirements;
  - (b) septic tank requirements;
  - (c) height of first habitable living area above the mean high water mark;
  - (d) current status of regional water and sewage systems.

14. to have set-back analyses done by coastal engineers, not geologists or environmentalists; the analyses should be based on prior records containing actual measurements.

The committee requests that the Coastal Resources Commission report any action taken or recommended on these items to the cochairmen of the committee.

Marshes, Agriculture and Peat Mining

RECOMMENDATION 27. The exemptions to CAMA should be modified so as to provide for the regulation of massive land conversions for corporate farming and peat mining.

Concern was expressed that "super farms" and peat mining operation have a potential for doing a lot of harm to North Carolina marshlands. The following bill would provide for the regulation under CAMA of their operations.

A statement of the Department of Natural Resources and Community Development concerning this recommendation may be found in Appendix E.

A BILL TO BE ENTITLED  
AN ACT TO MODIFY THE EXEMPTIONS UNDER THE COASTAL AREA  
MANAGEMENT ACT SO AS TO REGULATE MASSIVE CONVERSIONS FOR  
CORPORATE FARMING AND PEAT MINING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-103(5)(b)4 is amended by adding a proviso on the end to read: "provided however, that this exemption shall not cover massive land conversions for corporate farming and peat mining."

Sec. 2. This act is effective upon ratification.

RECOMMENDATION 23. The following recommendations regarding marshes,  
agriculture and peat mining, made at the public hearings, are referred  
to the Coastal Resources Commission for its information and considerati

1. to place more emphasis on sounds and marshlands;
2. to create some marshlands;
3. to make fresh water wetlands areas of environmental concerns;
4. to distinguish between occasionally flooded wetlands and true marshlands;
5. to make it easier to get a permit to clean out sand from a creek if doing so would enhance spawning areas;
6. to let people use rock to stabilize a lot if the lot's erosion would fill up and destroy spawning areas;
7. to modify CAMA exemptions so as to regulate massive land conversions for corporate farming and peat mining;
8. to carefully study the currently defined marine fisheries nursery area descriptions in areas adjacent to lands already occupied, improved and dedicated to use by man for economic benefit;
9. to make water areas now used or adjacent to lands classified for uses other than conservation, available for reasonable and appropriate uses by man for economic growth and development;

10. to recognize the wide variation in turbidity that occurs in nature when setting turbidity limits as conditions of permits;
11. to permit dredging of connecting channels deep enough to accommodate vessels using the navigable waters to which they connect;
12. to permit overdepth dredging to avoid unnecessarily frequent maintenance;
13. where a small patch of marsh grass is located at the edge of lands not designated for conservation, not to forbid use of area solely because of marsh grass or estuarine bottom sediments;
14. if a project requires removal of more than  $\frac{1}{4}$  acre of marsh grass, to require the owner to plant the same amount of grass in an area suggested by the Office of Coastal Management staff or to pay to have it done in suitable public areas.
15. to establish a study commission to designate on maps all conservation areas and areas of public ownership.
16. to designate as "conservation" marshes in creeks and at shorelands where no creek or waterway is within a reasonable distance whether or not they are adjacent to higher land user;
17. to permit access ways to nearby creeks and waterways through marshlands;
18. to permit landowners adjacent to use open waters to use those waters for commercial projects such as marinas and docks.

The committee requests that the Coastal Resources Commission report any actions taken or recommended on these items to the cochairmen of the committee.

## New Approaches

RECOMMENDATION 2<sup>a</sup>. The following new approaches to coastal area management, made at the public hearings, are referred to the Coastal Resources Commission for its information and consideration:

1. to clamp down on development and deny more permits;
2. to emphasize enforcement of regulations at the local level now that the basic policies and regulations are in place;
3. to make enforcement of the regulations more consistent and fair;
4. to keep enforcement in perspective (i.e. do not make it harder to get a small wetland filling project started than to build a major development);
5. to take inventory of fragile and critical areas in the coastal area;
6. to make sure local officials adopting or modifying land use plans understand the costs of the infra-structure they are planning;
7. to make CAMA live up to its agreement in Hyde County with regard to blanket permitting for existing draining ditches and acting as a liaison with federal and State agencies;
8. to deregulate everything possible;
9. to strengthen State guidelines relative to land use plans such that they become the cornerstones of local coastal management; and
10. to rethink the State's approach to the regulation of off-road vehicles.

The committee requests that the Coastal Resources Commission report any actions taken or recommended on these items to the cochairmen of the study.

STATE OF NORTH CAROLINA  
LEGISLATIVE RESEARCH COMMISSION  
STATE LEGISLATIVE BUILDING  
RALEIGH 27611



MEMBERSHIP

1981-1983

House Speaker Liston B. Ramsey	Senate President Pro Tempore
Cochairman	W. Craig Lawing, Cochairman
Representative Chris S. Barker, Jr.	Senator Henson P. Barnes
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Representative Gordon H. Greenwood	Senator William D. Mills
Representative John J. Hunt	Senator Russell Wilker
Representative Lura S. Tally	Senator Robert W. Wynne



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Coastal Area Management Act Rules Review Committee

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GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1981  
RATIFIED BILL

RESOLUTION 61

HOUSE JOINT RESOLUTION 1292

A JOINT RESOLUTION AUTHORIZING STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission may study the topics listed below. Listed with each topic is the 1981 bill or resolution that originally proposed the study and the name of the sponsor. The Commission may consider the original bill or resolution in determining the nature, scope and aspects of the study. The topics are:

(1) Continuation of study of revenue laws (H.J.R. 15 -- Lilley).

(2) Continuation of study on problems of aging (H.J.R. 48 -- Messer/S.J.R. 37 -- Gray).

(3) Day care (H.J.R. 223 -- Brennan).

(4) Civil rights compliance of non-State institutions receiving State funds (H.J.R. 344 -- Spaulding).

(5) Social services and public assistance (H.B. 393 -- P. Hunt).

(6) The need for new health occupational licensing boards (H.B. 477 -- Lancaster/S.B. 285 -- Jenkins).

(7) Matters related to public education, including:

a. The feasibility of making the 12th grade optional in the public schools (H.J.R. 890 -- Tally).

b. Continue study of public school food service (H.J.R. 948 -- Brennan).

c. The teacher tenure law (S.J.R. 621 -- Royall).

d. Providing teachers with duty-free periods (S.J.R. 697 -- Speed).

e. Continuation of study regarding purchase of buses in lieu of contract transportation, and other school bus transportation matters (no 1981 resolution).

(8) Campaign financing and reporting (H.J.R. 975 -- D. Clark).

(9) State's interests in railroad companies and railroad operations (H.B. 1069 -- J. Hunt).

(10) Matters related to insurance, including:

a. Insurance regulation (H.B. 1071 as amended -- Seymour), including the feasibility of establishing within the Department of Insurance a risk and rate equity board.

b. How the State should cover risks of liability for personal injury and property damage (H.J.R. 1198 -- Seymour).

c. Credit insurance (H.J.R. 1328 -- Barnes).

(11) Matters related to public property, including:

a. Development of a policy on State office building construction (H.J.R. 1090 -- Nye).

b. The potential uses and benefits of arbitration to resolve disputes under State construction and procurement contracts (H.J.R. 1292 -- Adams).

c. The bonding requirements on small contractors bidding on governmental projects (H.J.R. 1301 -- Nye).

d. Continue study of the design, construction and inspection of public facilities (S.J.R. 143 -- Clarke).

e. Whether the leasing of State land should be by competitive bidding (S.J.R. 178 -- Swain).

(12) Allocation formula for State funding of public library systems (H.J.R. 1166 -- Burnley).

(13) Economic, social and legal problems and needs of women (H.R. 1238 -- Adams).

(14) Beverage container regulation (H.J.R. 1298 -- Diamond).

(15) Scientific and technical training equipment needs in institutions of higher education (H.J.R. 1314 -- Fulcher).

(16) Role of the State with respect to migrant farmworkers (H.J.R. 1315 -- Fulcher).

(17) Existing State and local programs for the inspection of milk and milk products (H.J.R. 1353 -- James).

(18) Laws authorizing towing, removing or storage of motor vehicles (H.J.R. 1360 -- Lancaster).

(19) Annexation laws (S.J.R. 4 -- Lawing).

(20) Laws concerning obscenity (House Committee Substitute for S.B. 295).

(21) The feasibility of consolidating the State computer systems (S.J.R. 349 -- Alford/H.J.R. 524 -- Plyler).

(22) Laws pertaining to the taxation of alcoholic beverages and the designation of revenues for alcoholism

education, rehabilitation and research (S.J.R. 497 -- Gray).

(23) Regional offices operated by State agencies (S.J.R. 519 -- Noble).

(24) Continue study of laws of evidence (S.J.R. 698 -- Barnes).

(25) Continue study of ownership of land in North Carolina by aliens and alien corporations (S.J.R. 714 -- White).

(26) Rules and regulations pertaining to the Coastal Area Management Act (S.J.R. 724 -- Daniels).

(27) Transfer of Forestry and Soil and Water from Department of Natural Resources and Community Development to Department of Agriculture (H.B. 1237 -- Taylor).

(28) Continue sports arena study (H.J.R. 1334 -- Barbee).

(29) State investment and maximum earning productivity of all public funds (H.J.R. 1375 -- Beard).

Sec. 2. For each of the topics the Legislative Research Commission decides to study, the Commission may report its findings, together with any recommended legislation, to the 1982 Session of the General Assembly or to the 1983 General Assembly, or the Commission may make an interim report to the 1982 Session and a final report to the 1983 General Assembly.

Sec. 3. The Legislative Research Commission or any study committee thereof, in the discharge of its study of insurance regulation under Section 1(10)a. of this act, may secure information and data under the provisions of G.S. 120-19. The powers contained in the provisions of G.S. 120-19.1 through

G.S. 120-19.4 shall apply to the proceedings of the Commission or any study committee thereof in the discharge of said study. The Commission or any study committee thereof, while in the discharge of said study, is authorized to hold executive sessions in accordance with G.S. 143-318.11(b) as though it were a committee of the General Assembly.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified,  
this the 10th day of July, 1981.

JAMES C. GREEN

James C. Green

President of the Senate

LISTON B. RAMSEY

Liston B. Ramsey

Speaker of the House of Representatives



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1981

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SENATE JOINT RESOLUTION 724

Sponsors: Senators Daniels; Thomas of Craven, Mills, Harrington,  
Soles and Wright.

Referred to: Appropriations.

June 26, 1981

1 A JOINT RESOLUTION DIRECTING THE LEGISLATIVE RESEARCH COMMISSION  
2 TO STUDY RULES AND REGULATIONS PERTAINING TO THE COASTAL AREA  
3 MANAGEMENT ACT.

4 Be it resolved by the Senate, the House of Representatives  
5 concurring:

6                 Section 1. The Legislative Research Commission shall  
7 study rules and regulations pertaining to Article 7 of Chapter  
8 113A of the General Statutes, the Coastal Area Management Act.  
9 The study shall include an analysis of:

10                 (1) The necessity for the current rules and regulations  
11 in achieving the intent of the Coastal Area Management Act and in  
12 protecting the interests of the general public;

13                 (2) The efficacy of the current rules and regulations  
14 in achieving the intent of the Coastal Area Management Act and in  
15 protecting the interests of the general public;

16                 (3) The equity of the current rules and regulations and  
17 whether or not they cause undue hardship to small segments of the  
18 population;

19                 (4) The feasibility of eliminating unnecessary and  
20 ineffective rules and regulations and of modifying inequitable

1       rules and regulations to more evenly spread the burden throughout  
2       the general public.

3                   Sec. 2. The General Assembly suggests that the  
4       cochairman of the Research Commission appoint three members of  
5       the Senate, three members of the House of Representatives and two  
6       members of the general public from the coastal area as defined by  
7       G.S. 113A-103(2) to work with the regular members of the  
8       Research Commission on this study committee.

9                   Sec. 3. The Research Commission shall file an interim  
10      report with the 1981 General Assembly (Second Session 1982) and a  
11      final report with the 1983 General Assembly.

12                  Sec. 4. This resolution shall become effective July 1,  
13      1981.

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COASTAL MANAGEMENT FUNDING

BUDGET CATEGORY

	1981-1982	1982-1983	1983-1984	1984-1985
Salaries/Fringes	928,461	871,821	696,345	697,393
Staff	38	34	28	28
Administrative Support Costs	362,138	274,240	274,440	240,740
Local Implementation & Enforcement Grants (Minor Permit Processing)	170,000	88,900	60,000	60,000
Local Planning and Management Grants (Land Use Planning, Ordinances, etc.)	368,784	224,105	155,000	155,000
Totals	1,829,383	1,459,066	1,185,785	1,153,173
SOURCE OF FUNDS				
Federal	1,505,000	1,178,043	384,000	-0-
State	246,223	246,023	244,668	244,668
Local & Receipts	78,160	35,000	32,250	29,250
Expansion Request			524,867	879,215
Totals	1,829,383	1,459,066	1,185,785	1,153,133
% Funding from 1981-1982	100%	80%	65%	63%
Base Year				



A BILL TO BE ENTITLED

AN ACT TO CLARIFY AND SIMPLIFY THE  
COASTAL AREA MANAGEMENT ACT

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-113(b)(2) is rewritten to read:

"(2) Estuarine waters, that is, all the water of the Atlantic Ocean within the boundary of North Carolina and all the waters of the bays, sounds, rivers, and tributaries thereto seaward of the dividing line between coastal fishing waters and inland fishing waters, as set forth in the most recent official published agreement adopted by the Wildlife Resources Commission and the Department of Natural Resources and Community Development;"

Section 2. G.S. 113A-114 is repealed.

Section 3. G.S. 113A-118(d)(1), as it appears in the 1978 Replacement Volume 3A, Part II, is amended on the seventh line by deleting the words and punctuation "or the North Carolina Sedimentation Control Board;" and substituting therefor the words and punctuation "the North Carolina Sedimentation Control Board, or any federal agency or authority;"

Section 4. G.S. 113A-120(a)(5), as it appears in the 1978 Replacement Volume 3A, Part II, is amended on the first line by deleting the citation "G.S. 113A-113(4)" and substituting therefor the citation "G.S. 113A-113(b)(5)".

Section 5. G.S. 113A-120(b), is amended by rewriting the second sentence to read:

"The permit may be conditioned upon the applicant's amending his proposal to take whatever measures or agreeing to carry out whatever terms of operation or use of the development that are reasonably

SESSION 197

1      necessary to protect the public interest with respect to the factors  
2      enumerated in subsection (a) of this section."

3                Section 6. G.S. 113A-126(d)(3), as it appears in the 1978  
4      Replacement Volume 3A, Part II, is amended on the fourteenth line by  
5      deleting the citation "G.S. 143-315" and substituting therefor the  
6      citation "G.S. 150A-43 et seq."

7                Section 7. This act is effective upon ratification.

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SESSION 197

1 A BILL TO BE ENTITLED

2 AN ACT TO AMEND G.S. 113-229

3 RELATING TO PERMITS, APPEALS, AND

4 HEARINGS REGARDING DREDGING AND

5 FILLING

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 113-229(e) is amended to rewriting the

8 last sentence to read:

9 "The Department shall act on an application for permit within  
10 90 days after the completed application is filed, provided the  
11 Department may extend such deadline by not more than an additional  
12 90 days if necessary properly to consider the application, except for  
13 applications for a special emergency permit, in which case the  
14 Department shall act within two working days after an application  
15 is filed, and failure to so act shall automatically approve the  
16 application."

17 Section 2. G.S. 113-229(f) is rewritten to read:

18 "(f) Any person who is directly affected by a permit decision under  
19 G.S. 113-229(e) or (e1) may submit a written request, within 20  
20 days of such action, for a hearing before the Coastal Resources Commission.  
21 Requests for hearings by any person other than the applicant shall  
22 be reviewed by the Commission or its duly authorized agent according  
23 to G.S. 113A-121A(c) to determine whether a hearing should be granted.  
24 Pending final disposition of any such review by the Commission, no  
25 action shall be taken which would be unlawful in the absence of a  
26 permit. In cases where the request for a hearing has been denied,  
27 development authorized by the permit may be undertaken unless prohibited  
28 by an order of the superior court."

**SESSION 197**

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1           Section 3. G.S. 113-229(g) is rewritten to read:

2           "(g) Appeals to the Coastal Resources Commission of permit  
3 decisions under this section shall follow the procedures and  
4 requirements set forth in G. S. 113A-122."

5           Section 4. This act is effective upon ratification.

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# North Carolina Department of Natural Resources & Community Development

James B. Hunt, Jr., Governor

Joseph W. Grimsley, Secretary

December 7, 1982

The Honorable Chris S. Barker, Jr.  
North Carolina Representative  
Post Office Box 988  
New Bern, North Carolina 28560

Dear Chris:

I appreciate your interest and inquiry regarding questions that have recently arisen about Coastal Area Management Act (CAMA) regulation of large-scale land conversion for corporate farming and peat mining.

The Department of Natural Resources and Community Development conducted an extensive review of the peat mining situation in early 1981, looking at the level of proposed peat mining activity, its impact on our natural resources, and the adequacy of our management system. Over the past six months, a comprehensive review of this earlier study has been conducted by the Department in light of the more active peat use proposals and concerns about possible harmful environmental impacts.

While this review has not yet been finalized, we have come to the conclusion that additional CAMA regulations on peat mining are not needed at this time. The principal management tool for peat mining is the Mining Act of 1971. This law allows the Department to address all of the impacts of peat mining related to fisheries, wildlife, air and water quality, public lands, sedimentation, and danger to neighboring properties. When combined with the air and water permit requirements (PSO and NPDES), the sedimentation law, the water withdrawal permits and other existing management provisions, all of the significant impacts of peat mining can be addressed. The Department is taking steps at this time, in full coordination with permittees, to modify existing outstanding peat mining permits to assure that all of these important concerns are adequately addressed.

As for large-scale farming operations, CAMA permits are currently required for any new discharges that affect estuarine waters. Further, the Governor's Coastal Water Management Task Force has just recently completed its recommendations and an implementation committee has been formed. This is a very important and very complicated issue. The large-scale land clearing that changes the basic nature of an area may require some additional regulation. However, it is very important at this critical time that our efforts not be fragmented and that we continue to focus on the work of the existing Task Force.

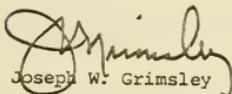
The Honorable Chris S. Barker, Jr.

December 7, 1982

In summary, the environmental impacts of these type projects indeed bear close monitoring and careful attention. The Department is aware of these concerns and already has steps underway to assure the protection of our vital natural resources. Budget constraints and staff limitations dictate that we be very careful in our approach to make maximum use of existing resources as we continue in our management efforts.

With best personal regards.

Sincerely,



Joseph W. Grimsley

JWG/ch

CC: Senator Melvin Daniels  
Representative Charles Evans  
Representative Harry Payne  
Mr. Terry Sullivan  
Ms. Sarah Fuerst



